

IN THE WATER COURT OF THE STATE OF MONTANA
YELLOWSTONE RIVER DIVISION
TONGUE RIVER, ABOVE & INCLUDING HANGING WOMAN CREEK (BASIN 42B)
INTERLOCUTORY DECREE

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CLAIMANT: Consolidation Coal Co.

CASE 42B-0002-I-2023
42B 183700-00

NOTICE OF FILING OF MASTER'S REPORT

This Master's Report was filed with the Montana Water Court on the above stamped date. Please review this report carefully.

You may file a written objection to this Master's Report within **10 days** of the stamped date if you disagree or find errors with the Master's findings of fact, conclusions of law, or recommendations. Rule 23, W.R.Adj.R. If the Master's Report was mailed to you, the Montana Rules of Civil Procedure allow an additional 3 days be added to the 10-day objection period. Rule 6(d), M.R.Civ.P. If you file an objection, you must serve a copy of the objection to all parties on the service list found at the end of the Master's Report. The original objection and a certificate of mailing to all parties on the service list must be filed with the Water Court.

If you do not file a timely objection, the Water Court will conclude that you agree with the content of this Master's Report.

MASTER'S REPORT

FINDINGS OF FACT

1. Claim 42B 183700-00 is owned by Consolidation Coal Co.

2. Claim 42B 183700-00 is a claim for livestock drinking directly from a spring in the NWSWNW of Section 24, T8S, R38E, Big Horn County.

3. James S. Hamilton filed a withdrawal for claim 42B 183700-00.

4. Montana Cadastral shows James S. Hamilton as the owner of the NWSWNW of Section 24, T8S, R38E, Big Horn County. According to Mr. Hamilton, there is no spring in the claimed point of diversion or place of use.

5. James S. Hamilton was ordered to file a deed or other evidence showing his purchase of the NWSWNW of Section 24, T8S, R38E, Big Horn County and claim 42B 183700-00. (Doc.¹ 1.00). Nothing was filed by the deadline.

6. James S. Hamilton was ordered to show cause why his withdrawal of claim 42B 183700-00 should not be dismissed for failure to comply with the filing deadline. (Doc. 2.00). Again, nothing was filed by the deadline.

7. To date, ownership has not been updated in the DNRC's database and no ownership updates are pending.

PRINCIPLE OF LAW

1. If a claimant agrees to reduce or limit a claim, the Water Court may accept the reduction or limitation without reviewing further evidence, unless an unresolved issue remark remains. Rule 17(c), W.R.Adj.R. (emphasis added).

CONCLUSION OF LAW

1. Based on James S. Hamilton's failure to provide sufficient evidence supporting his ownership of claim 42B 183700-00, his request to withdraw the claim should be dismissed. If ownership is updated with the DNRC, James S. Hamilton may withdraw the claim at that time.

RECOMMENDATION

1. James S. Hamilton's request to withdraw claim 42B 183700-00 should be denied.

ELECTRONICALLY SIGNED AND DATED BELOW.

¹ "Doc." numerical references correlate to case file docket numbers in the Water Court's Full Court case management system.

Service via USPS Mail

Consolidation Coal Co
1000 Consol Energy Dr, Suite 100
Canonsburg, PA 15317-6506

Potential Owner:

James S Hamilton Jr.
HC 59 Box 13
Decker, MT 59025